

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

THOMAS G. FIGANIAK and
VALERIE A. FIGANIAK, as
Administrators of the Estate of
Kevin Figaniak,

Plaintiffs,

v.

CIVIL ACTION NO. 5:15-CV-111 (Stamp)

LOYAL ORDER OF OWLS NEST
LODGE 2558 d/b/a THE OWLS NEST,
a West Virginia corporation, YE OLDE
ALPHA, INC., a West Virginia
corporation, CRAIG TYLER
PEACOCK, individually, JARRETT
CHANDLER, individually, and TYLER
JOHNSON, individually,

Defendants.

MOTION

NOW comes the above named parties as advised the Court as follows:

1. On September 29, 2016, the Plaintiff filed *Petition of Thomas G. Figaniak and Valerie A. Figaniak, As Administrators of the Estate of Kevin Figaniak, To Approve A Compromise And Settlement Pursuant to W.Va. Code § 55-7-7*. ECF No. 107
2. As outlined in the *Petition*, Plaintiffs have reached a settlement with Defendants Loyal Order of the Owls Nest Lodge 2558 d/b/a The Owls Nest and Ye Olde Alpha, Inc.
3. As the parties have been made aware and as outlined in the *Petition* and the exhibits attached thereto, the distribution of the settlement monies is to be reserved until final resolution of the case, except for possible resolution of medical bills or liens.¹

¹ At this time, counsel for Plaintiffs is attempting to negotiate the medical liens. Given that the amount of these liens is not final, Plaintiffs do not know how much of the settlement will be necessary to satisfy the liens. It is further understood that any settlement monies available after paying the medical liens will be held in escrow until the conclusion of this matter. As litigation is still ongoing, it is unclear as to the exact amount of costs that will be incurred in prosecuting this matter. Therefore, an exact distribution of the settlement monies is unknown at this time.

4. On October 4, 2016, the Honorable Court entered an *Order Scheduling Hearing on Plaintiffs' Petition to Approve a Compromise and Settlement Pursuant to West Virginia Code § 55-7-7*. ECF No. 109. In that *Order*, the Court provided that the Defendants may file a response to the *Petition* on or before October 12, 2016. Furthermore, the Court set a hearing on October 19, 2016, to consider the *Petition*.
5. The remaining Defendants state that they will not be objecting to the settlement. Consequently, the parties ask that the hearing set for October 19, 2016, be vacated and the proposed order submitted along with this *Motion* be entered.²

Respectfully Submitted,

/s/ Guy R. Bucci, per email authorization
Guy R. Bucci, Esq.,
Ashley N. Lynch, Esq.,
BUCCI & LYNCH
112 Capitol Street, Suite 200
Charleston, WV 25301

Robert Mongeluzzi, Esq.,
Jeffrey P. Goodman, Esq.,
Saltz, Mongeluzzi, Barrett, and Bendesky, P.C.
One Liberty Place, 52nd Floor
1650 Market Street
Philadelphia, PA 19103
Counsel for Plaintiffs

/s/ Patrick S. Casey, per email authorization
Patrick S. Casey, Esq.,
David Kevin Coleman, Esq.,
Casey & Chapman
1140 Chapline Street
Wheeling, WV 26003
Ye Olde Alpha

/s/ Matthew G. Chapman
Anthony C. Sunseri, Esq.,
Matthew G. Chapman, Esq.,
Burns White
The Maxwell Centre
32 20th Street, Suite 200
Wheeling, WV 26003
Loyal Order of the Owls Nest Lodge 2558
d/b/a The Owls Nest

/s/ M. Winiesdorffer-Schirripa, per email authorization
G. Thomas Smith, Esq.,
M. Winiesdorffer-Schirripa, Esq.,
Smith, McMunn, & Glover
516 West Main Street
Clarksburg, WV 26301
Jarrett Chandler

² If the hearing is waived the attached order can be changed to reflect that action if the Court desires. All parties, however, will defer to the Court with regards to whether a hearing is required to approve this settlement. If the Court desires that a hearing be set, the remaining Defendants who do not object to the settlement ask permission to appear by telephone.

/s/ Kenneth L. Hopper, per email
authorization

Kenneth L. Hopper, Esq.,
Pullin, Fowler, Flanagan, Brown, & Poe
2414 Cranberry Square
Morgantown, WV 26508
Craig Tyler Peacock

/s/ Trevor K. Taylor, per email authorization

Trevor K. Taylor, Esq.,
Taylor Law Firm
34 Commerce Drive, Suite 201
Morgantown, WV 26501
Tyler Johnson